REMARKS/ARGUMENTS

Claims 1, 3, 5, 8-11, 13 and 16-18 were presented for examination and are pending in this application. In an Official Office Action dated April 16, 2007, claims 1, 3, 5, 8-11, 13 and 16-18 were rejected. The Applicant thanks the Examiner for his consideration and addresses the Examiner's comments concerning the claims pending in this application below.

Applicant herein amends claims 1, 3 and 16 and respectfully traverses the Examiner's prior rejections. Claims 10 and 11 are cancelled without prejudice and no new claims are presently added leaving claims 1, 3, 5, 8, 9, 13 and 16-18 pending. These changes are believed not to introduce new matter, and their entry is respectfully requested. The claims have been amended to expedite the prosecution and issuance of the application. In making this amendment, the Applicant has not and is not narrowing the scope of the protection to which the Applicant considers the claimed invention to be entitled and does not concede, directly or by implication, that the subject matter of such claims was in fact disclosed or taught by the cited prior art. Rather, the Applicant reserves the right to pursue such protection at a later point in time and merely seeks to pursue protection for the subject matter presented in this submission.

Based on the above amendment and the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding rejections and withdraw them.

In view of all of the above, the claims are now believed to be allowable and the case in condition for allowance which action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is requested to contact Applicant's attorney at the telephone number listed below.

35 U.S.C. §112 Rejection of Claims

Claim 10 was rejected under 35 U.S.C. § 112 first paragraph for failing to be enabled by the specification. Claims 10 and 11 are herein cancelled without prejudice.

35 U.S.C. §103(a) Obviousness Rejection of Claims

Claims 1, 3, 5, 8-11, 13 and 16-18 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,131,087 by Luke et al. ("Luke") in view of U.S. Patent No. 6,912,510 by Shepherd ("Shepherd") in further view of U.S. Patent Application Publication No. 2002/0016759 by Macready ("Macready"). Applicant respectfully traverses these rejections in light of the aforementioned remarks and respectfully requests reconsideration.

The cited references fail to teach or suggest all of the limitations recited in the claims as currently amended. For example, independent claim 1 (and claim 3 in varying language) recites, among other things, "Matching the active order with the matching order when the matching order exists identifying a matched order and thereafter applying a rule based filter to the matched order to determine whether the matched order matches the active order based upon a rule based criteria; and responsive to the matched order failing to match the active order based on the rule based criteria rejecting the matched order." The Applicant believes that Luke in view of Shepherd fails to teach or suggest this limitation of the invention.

As a beginning point, the Applicant submits that the Luke and Shepherd are non-analogous art. Luke relates to methods for automatically identifying an matching buyers and sellers in electronic commerce transactions. Shepherd, as defined in Shepherd's technical field and throughout the patent, "is concerned with the management of risk relating to specified, <u>yet unknown</u>, future events."

(Emphasis added). As is further defined at col. 3, lines 49-51 of Shepherd, "...the invention enables parties to manage perceived risk in respect of known, yet non-predictable, possible future events." Luke is concerned with the matching of market participants using known characteristics. Risk management relating to future events, especially unknown future events is distinct from Luke. And while Luke bears some resemblance to the subject matter of the Applicant's invention, Shepherd teaches away from the matching of normalized dimensions of passive and active orders, all of which possess characteristics that are known and possess known perceived risk. One skilled in the art would not turn to Shepherd to resolve the deficiencies of Luke as it teaches away from Luke as well as the Applicant's invention.

Luke is cited as failing to teach or suggest applying a rule based filter to determine a match after orders have been matched based on matching normalized dimensions. Specifically as is claimed in claim 3, the limitations states, "Responsive to matching at least one passive order from among the plurality of stored passive orders to that of the active order based on characteristics that match normalized dimensions corresponding to the received characteristics, thereafter applying a rule based filter to determine whether the at least one passive order matches the active order based upon a rule based criteria, wherein the at least one passive order matching the active order based on characteristics that match normalized dimensions corresponding to the received characteristics is rejected based on a failure to meet the rule based criteria even though the matching order is found based on the normalized dimensions."

The USPTO communication of April 16, 2007 indicates that Shepherd teaches a system and method for exchanging risk management contracts, wherein orders for said contracts are matched within a database for having matching parameters, and wherein thereafter a number of rules are checked for

compliance, and wherein an order which may match in parameters may be rejected thereafter for failing compliance rules. The Applicant's invention requires that first a match exist between a passive order and an active order based on normalized dimensions. The cited portions of Shepherd (col. 4, lines 17-39), appear to teach contract formation by submitting an order relating to a phenomenon with a range of possible outcomes with respect to some future date. Independent date with respect to that future data and phenomenon are also submitted. A price is assigned for each submittal that includes a measure of risk. That price is compared to the ordering party's maximum consideration to determine whether a match has occurred.

Shepherd does not convey a match of one of a plurality of stored passive orders to an active order based on normalized dimensions. The matching taught in Shepherd is a price based risk assessment in an attempt to form a future contract. Once an order is submitted, risk is considered to ultimately arrive at a proposed counter consideration. In the terms of a contract, this is offer and counteroffer, not offer and acceptance. There is no match; no contract exists. Shepherd is a proposed offer for some future event to address a request for submissions of offers. A plurality of dimensions are not normalized as is claimed by the Applicant nor is the match described in Shepherd based on these normalized dimensions.

The point is emphasized by the sections cited in col. 20, lines 36-54 of Shepherd. Shepherd states, "For matched orders to become a contract, a number of <u>additional</u> actions are required." (Emphasis added) For this to read on the Applicant's invention, it must read, a contract must be <u>rejected</u> for failure to meet a rule. Shepherd requires additional action to take place for a match, a contract, to actually exist. No match actually exists until these rules are applied and with which compliance is achieved. This is consistent with contract formation as is common in any State with respect to offer, counteroffer and

acceptance. This not the matching of a passive order with an active order and thereafter applying a rule based filter. Shepherd requires active intervention. For example, consider lines 41-43 wherein Shepherd sends out authorization requests and tests the reply. This is not the application of a rule based filter to reject an otherwise match as is claimed by the Applicant. Shepherd is an interactive bargaining process to establish a contract. The art is not analogous and Shepherd does not teach or suggest the Applicant's invention.

The Applicant therefore deems claims 1 and 3, and all claims that depend therefrom, patentable over Luke in view of Shepherd. Reconsideration is respectfully requested.

No fee is believed due for this submittal. However, any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

Respectfully submitted,

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